IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST NOVEMBER,

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 19959 of 2004

Between:

Kallem Anji Reddy, s/o Basivi Reddy,
Chagantipadu Village, Thotlavallur Mandal, Krishna District.

..... PETITIONER

AND

1 Sri Venugopala Swamy Vari Devasthanam, A diety rep. by its Executive Officer, Thotlavallur Village & Mandal, Krishna District - 521 163.
2 The District Collector (Land Acquisition), Krishna District, Machilipatnam, Krishna District - 521 002.
3 The Mandal Revenue Officer, Thotlavallur, Krishna District - 521 163.
4 The Land Acquisition Officer cum Revenue Divisional Officer, Vijayawada, Krishna District regarding RS.No. 108, Thotlavallur Village of Krishna District Vijayawada (Krishna District) Pin 520 001.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a Writ, order or directions, more particularly one in the nature of a writ of certiorari quashing Award No. 1/2003 dt. 28-3-2003 passed by the 4th Respondent so far as it relates to this Writ Schedule Property , declaring, that the Land Acquisition Proceedings and the award are null and void so far as they relate to the schedule property, and this petitioner, for the various reasons stated in the Writ Affidavit, or alternatively, to direct the Respondents to pay Rs. Three Lakhs only (Rs. 3.00 Lakhs) out of the compensation amount to this petitioner.

Counsel for the Petitioner:MR.D.RAMALINGA SWAMY

Counsel for the Respondent No.1:S.C. FOR ENDOWMENTS

Counsel for the Respondents 2 to 4:G.P. FOR LAND ACQUISITION

The Court, at the stage of admission, made the following :

ORDER

Petitioner, who claims to be a tenant of the land owned and possessed by first respondent-Devasthanam, filed this writ petition questioning the award passed by the fourth respondent-Land Acquisition Officer dated 28.3.2003 as void and inoperative in view of Section 11-A of the Land Acquisition Act (for short 'the Act') since the award is passed beyond the statutory period prescribed under the Act. Learned counsel for the petitioner contends that declaration under Section 6 of the Act was made on 7.7.1999 and on questioning the same, petitioner earlier filed W.P.No.13743 of 2001 challenging the acquisition proceedings and in the alternative claiming half of the compensation which was disposed of on 28.8.2001 directing the fourth respondent to pass award taking into consideration of the claim of the petitioner and by deciding the market value and the total amount of compensation payable in respect of the land to the eligible claimants. As no steps were taken, the petitioner filed C.C.No.297 of 2003 against the fourth respondent. The said contempt case was closed on producing the records about passing of the impugned order by considering the claims and objections of all the parties. In view of the same, it is contended that the impugned award so passed by the fourth respondent after the lapse of four years is a nullity and the same is liable to be set aside.

As seen from the impugned award, no advance possession of the land was taken, but on payment of 80% amount of compensation on 22.9.2000, the possession of the land was taken on 23.9.2000 i.e. within the time of two years. Once possession of the land is taken pursuant to the issuance of notification under Section 4(1) of the Act within the prescribed period of two years, the submission made by the learned counsel for the petitioner that the notification will lapse on expiry of the period of two years, cannot be countenanced and it is contrary to the principles laid down by the Apex Court in ……Further, the fourth respondent in the impugned award after considering the rival claims also held that the petitioner is an encroacher but not tenant. In view of the same I see no ground or merit in the submission made by

the learned counsel for the petitioner. The writ petition is devoid of merits and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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A. GOPAL REDDY. J.

1st November, 2004

Note: Issue C.C. by one week.

tsr.

To

1 The Executive Officer, Sri Venugopala Swamy Vari Devasthanam, Thotlavallur Village & Mandal, Krishna District - 521 163.
2 The District Collector (Land Acquisition), Krishna District, Machilipatnam, Krishna District - 521 002.
3 The Mandal Revenue Officer, Thotlavallur, Krishna District - 521 163.
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5. Two CCs to Government Pleader fo rLand Acquisition Officer, High Court Buildings, Hyderabad. (OUT).

6 Two CD copies.